

**MEDICAL EXAMINING BOARD  
MINUTES  
SEPTEMBER 14, 2005**

**PRESENT:** Drs. Lief Erickson; Alfred Franger; Jon Gudeman; Sujatha Kailas; Jack Lockhart; Daniel J. Miota; Gene Musser; Sandra Osborn; Bhupinder Saini; and Virginia Heinemann

**ABSENT:** Dr. Ian Munro

**STAFF:** Tom Ryan, Bureau Director; Colleen Baird, Legal Counsel; PJ Monson, Bureau Assistant

**GUESTS:** Mark Grapentine, WI Medical Society; Judy Warmuth, WI Hospital Association; Eric Callisto, DRL-DOE.

**CALL TO ORDER**

Dr. Alfred Franger called the meeting to order at 8:03 a.m. There was a quorum of 10 members present.

**APPROVAL OF AGENDA**

**Additions to Agenda:**

Item "C" – Letter from Wisconsin Society of Podiatric Medicine, Inc. regarding the Wisconsin Society of Anesthesiologists – Petition for Declaratory Ruling

Item "C" – Letter from Wisconsin Medical Society regarding the Wisconsin Society of Anesthesiologists – Petition for Declaratory Ruling

Item "C" – Petition for Declaratory Ruling filed 7/25/05

After Item "C" – Petition for rehearing for Richard D. Turcott, MD

After Item "O" - Richard D. Turcott, MD documents from September agenda

Between Item "E and F" – Licensure of Displaced Professionals

After Item "O" - Stipulation in the matter of disciplinary proceedings against Jae Y. Shim, MD

After Item "O" – Complaint in the matter of disciplinary proceedings against Michael C. Dussault, MD

After Item "O" - Application Materials – Dr. Oscar Perez

After Item "O" — DOE Pending Cases

After Item "O" – DOE Death Cases Report

**MOTION:** Dr. Kailas moved, seconded by Dr. Erickson, to approve the agenda of September 14, 2005, with additions. Motion carried unanimously.

## **APPROVAL OF MINUTES OF AUGUST 17, 2005**

**MOTION:** Dr. Kailas moved, seconded by Ms. Heinemann, to approve the August 17, 2005 minutes as written. Motion carried unanimously.

## **SCREENING PANEL REPORT**

The screening panel reported that it reviewed 25 complaints: 8 were opened, 17 were not opened.

## **ADMINISTRATIVE REPORT**

Renovation is on schedule and the next Medical Examining Board meeting will be in the new location.

## **PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS**

### **Jene Van Den Hout, RCP**

Attorney Arthur Thexton presented the Proposed Stipulation, Final Decision and Order in the matter of Jene Van Den Hout, RCP.

## **PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE RECEIVED IN THE BUREAU AFTER MAILING OF AGENDA**

### **Jae Y. Shim, MD**

Attorney Arthur Thexton presented the Proposed Stipulation, Final Decision and Order in the matter of disciplinary proceedings against Jay Y. Shim, MD.

The victims' Mother addressed the board.

## **PETITIONS FOR RE-HEARING THAT MAY BE RECEIVED IN THE BUREAU AFTER MAILING OF THE AGENDA**

### **RICHARD D. TURCOTT, MD.**

Mike Berndt, Department Of Enforcement, appeared before the board requesting a rehearing in the matter of the Final Decision and Order dated August 17, 2005 against Richard D. Turcott, MD.

Attorney Kathleen Bonville, representing Dr. Turcott, MD, appeared before the Board requesting the original order be upheld in the matter against Richard D. Turcott, MD.

**REQUEST FOR HEARING TO CONSIDER WISCONSIN SOCIETY OF  
ANESTHESIOLOGISTS' PETITION FOR A DECLARATORY RULING  
REGARDING INDEPENDENT MEDICARE PRACTICE BY CERTIFIED  
REGISTERED NURSE ANESTHETISTS ("CRNAS")**

Attorney Michael Laskis, Foley & Lardner, LLP, representing the Wisconsin Society of Anesthesiologists, appeared before the Board requesting a review of the Governor's decision to allow an opt out from the Medicare rule that otherwise requires physician supervision of CRNA's.

Attorney Stan Davis, Quarles and Brady, representing the Wisconsin Association of Nurse Anesthesiologists appeared before the Board in support of denial of the petition.

Tom Hilbert, President of the Wisconsin Association of Nurse Anesthesiologists also appeared in support of denial of the petition.

Kathleen Sullivan, Wisconsin Board of Nursing, appeared before the Board in support of denial of the petition.

Irene Temple, Wisconsin Department of Health and Family Services, appeared before the Board to state that the decision to opt out does not conflict with Wisconsin's HFS regulations relating to hospitals.

Attorney Steven Gloe, General Counsel, Department of Regulation and Licensing, representing the Secretary of the Department, appeared before the Board in support of denying the petition.

**Summary Reports of Pending Court Cases, Disciplinary Cases, Administrative  
Rules and Legislation**

Noted.

**ROLE OF CASE ADVISOR IN PROSECUTION OF DOE CASES AND  
RECRUITMENT OF EXPERTS**

Eric Callisto, DOE, appeared before the Board to answer questions and discuss use of legal experts by the Division of Enforcement. The Board suggested an investigator be assigned within thirty days of screening and that information relating to the investigation be dispersed to the case advisor at the earliest opportunity.

**BOARD REVIEW OF DEA CLARIFICATION OF EXISTING REQUIREMENTS  
UNDER THE CONTROLLED SUBSTANCES ACT FOR PRESCRIBING  
SCHEDULE II CONTROLLED SUBSTANCES**

Noted.

## **LICENSURE OF DISPLACED PROFESSIONALS**

### **Board Issues Relating to Hurricane Katrina:**

**MOTION:** Dr. Kailas moved, seconded by Dr. Erickson, to accept the Licensure of Displaced Professionals with the effective dates of September 14, 2005 to December 13, 2005. Motion carried unanimously.

### **INFORMATIONAL ITEMS**

Noted.

### **CONVENE TO CLOSED SESSION**

**MOTION:** Dr. Miota moved, seconded by Dr. Erickson, to adjourn to closed session pursuant to Wisconsin State statutes 29.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests, requests for licensure, deliberating on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and Division of Enforcement case status reports. Motion carried by roll call vote: Dr. Franger; Dr. Gudeman-yes, Dr. Lockhart-yes, Dr. Erickson-yes; Ms. Heinemann-yes, Dr. Kailas; Dr. Miota; Dr. Musser-yes; Dr. Osborn-yes; Dr. Bhupinder Saini-yes.

Open Session recessed at 10:29 a.m.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Dr. Osborn moved, seconded by Dr. Miota, to reconvene to open session. Motion carried unanimously.

Open session reconvened at 1:40 p.m.

### **FULL BOARD ORAL EXAMINATION**

#### **ALEXEI TOV, MD**

Alexei Tov, MD, appeared before the Board.

**MOTION:** Ms. Heinemann moved, seconded by Dr. Kailas, to deny the application for licensure of Alexei Tov, MD, based upon inadequate training and past practice. He was on probation for the

majority of the one year of internship and there has been no practice for 3 years. Motion carried unanimously.

**DELIBERATION OF PROPOSED STIPULATIONS,  
FINAL DECISIONS AND ORDERS**

**JENE VAN DEN HOUT, RCP**

**MOTION:** Dr. Kailas moved, seconded by Ms. Heinemann, to adopt the Findings of Fact, Conclusions of Law, Stipulation, and Order in the matter of disciplinary proceedings against Jene Van Den Hout, RCP, 04 MED 486. Motion carried unanimously.

**DELIBERATION OF PETITION TO APPEAL ALJ DECISION**

**JEFFREY F. MENN, MD**

**MOTION:** Dr. Gudeman moved, seconded by Dr. Osborn, to request the ALJ appear before the Board with regard to Jeffrey F. Menn. Motion carried. Dr. Miota and Dr. Kailas opposed. Dr. Saini and Dr. Gudeman abstained.

**DELIBERATION OF PROPOSED COMPLAINTS**

**02 MED 328**

**MOTION:** Dr. Kailas moved, seconded by Ms. Heinemann, in favor of a finding of probable cause to issue the complaint in the matter of James M. Shortt, MD - **02 MED 328**. Motion carried unanimously. Dr. Miota abstained.

**02 MED 382**

**MOTION:** Dr. Miota moved, seconded by Dr. Kailas, in favor of a finding of probable cause to issue the complaint in the matter of Michael C. Dussault, MD - **02 MED 382**. Motion carried unanimously.

**DELIBERATION OF ADMINISTRATIVE WARNING**

**05 MED 190**

**MOTION:** Dr. Erickson moved, seconded by Dr. Osborn, to issue the administrative warning in the matter of **05 MED 190**. Motion carried unanimously. Dr. Kailas abstained

**DELIBERATION OF WISCONSIN SOCIETY OF ANESTHESIOLOGISTS'  
PETITION FOR A DECLARATORY RULING REGARDING UNSUPERVISED  
MEDICARE PRACTICE BY CERTIFIED REGISTERED NURSE  
ANESTHETISTS ("CRNAS")**

**MOTION:** Dr. Miota moved, seconded by Dr. Erickson, to accept the Petition for a Declaratory Ruling regarding unsupervised Medicare Practice by CRNA's and have an ALJ appointed to hear the petition. Motion carried unanimously.

**DOE MONITORING**

**JEFFREY JUNIG, MD  
ANNUAL APPEARANCE – PETITION FOR 3 MONTH STAY**

Dr. Junig appeared before the Board.

**MOTION:** Dr. Miota moved, seconded by Dr. Erickson, to grant the 3 month stay with modification in the matter of Jeffrey Junig, MD. Motion carried unanimously.

**THOMAS STRICK, MD  
ANNUAL APPEARANCE – PETITION FOR 3 MONTH STAY**

Dr. Strick appeared before the Board.

**MOTION:** Dr. Musser moved, seconded by Dr. Erickson, to grant the 3 month stay in the matter of Thomas Strick, MD. Motion carried unanimously.

**KENNETH SPARR, MD  
POSSIBLE VIOLATION OF BOARD ORDER**

Attorney Randal N. Arnold, Hinshaw & Culbertson, LLP, appeared before the Board on behalf of Kenneth Sparr.

**MOTION:** Dr. Miota moved, seconded by Dr. Saini, to deny the next stay for Kenneth Sparr, MD, effective Oct 1, 2005, with an increase to daily UA screening between today's date and October 14, 2005. Motion carried unanimously.

**BENJAMIN BEGLEY, MD  
PETITION FOR 3 MONTH STAY**

**MOTION:** Dr. Kailas moved, seconded by Ms. Heinemann, to grant the 3 month stay in the matter of Benjamin Begley, MD. Motion carried unanimously.

**DELIBERATION OF PROPOSED COMPLAINTS RECEIVED IN THE  
BUREAU AFTER MAILING OF THE AGENDA**

**JAY Y. SHIM, MD**

**MOTION:** Dr. Musser moved, seconded by Mr. Erickson, in favor of a finding of probable cause to issue the complaint in the matter of disciplinary proceedings against Jay Y. Shim, MD – 04 MED 354 - and deny the stipulation. Motion carried. Dr. Saini opposed.

**REVIEW OF BOARD ORDER AND APPLICATION  
OSCAR PEREZ, MD**

Oscar Perez appeared before the board to answer questions.

**MOTION:** Dr. Saini moved, seconded by Dr. Osborn, to grant the application for licensure in the matter of Oscar Perez, MD. Motion carried unanimously. Ms. Heinemann abstained.

**PETITION FOR REHEARING**

**RICHARD D. TURCOTT, MD**

**MOTION:** Dr. Lockhart moved, seconded by Dr. Osborn, to deny the petition for rehearing in the case against Richard D. Turcott, MD, and to accept the analysis submitted by legal counsel. Motion carried unanimously.

Ms. Heinemann left the meeting.

**DOE CASE CLOSINGS**

**04 MED 325 AND 04 MED 399**

**MOTION:** Dr. Erickson moved, seconded by Dr. Osborn, to close case 04 med 325 and 04 MED 399 for prosecutorial discretion (P7). Motion carried unanimously.

**04 MED 409**

**MOTION:** Dr. Osborn moved, seconded by Dr. Miota, to close case 04 MED 409 with regard to Dr. Rahn for Insufficient Evidence and L2 against Dr. Ashwell. Motion carried unanimously.

**RATIFYING LICENSES AND CERTIFICATES**

**MOTION:** Dr. Erickson moved, seconded by Dr. Miota, to ratify all licenses. Motion carried unanimously.

**VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION IF VOTING IS APPROPRIATE**

**MOTION:** Dr. Kailas moved, seconded by Dr. Miota, to reaffirm all motions made during closed session. Motion carried unanimously.

**ADJOURNMENT**

**MOTION:** Dr. Erickson moved, seconded by Dr. Osborn, to adjourn the meeting at 1:42 p.m. Motion carried unanimously.

**Next meeting October 12, 2005**